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FACSIMILE

Date: Aug 13 04

To: MR ROLAND SCHMITTEN From: DAVE ALLISON

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COMMENTS:

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Aug 13, 2004

VIA FACSIMILE AND UNITED STATES MAIL

Mr. Rolland A. Schmitten,
Director, Office of Habitat Conservation, NOAA
National Marine Fisheries Service, F/HC,
1315 East-West Highway, Silver Spring, MD 20910
FAX (301) 427-2572

RE: Notice of receipt of rulemaking petition to protect deep-sea coral and sponge habitat and request for comments (*69 Fed. Reg. 32991 (June 14, 2004)*)

Dear Mr. Schmitten:

Thank you for the opportunity to submit these comments concerning Oceana's rulemaking petition to protect deep-sea coral and sponge habitat. Oceana is an international advocacy organization, with over 200,000 active supporters worldwide, that is dedicated to restoring and protecting the world's oceans. Oceana has actively participated in several Regional Fishery Management Councils' ("Councils") Essential Fish Habitat (EFH) and Habitat Area of Particular Concern (HAPC) processes. In particular, Oceana has proposed alternatives to protect sensitive deep-sea coral habitats in the North Pacific, made presentations to the Pacific Council, given testimony to extend the protections for the Oculina Banks off Atlantic Florida, and submitted comments in support of recent moves to protect coral and sponge habitat in the North Atlantic waters off New England.

NOAA, the National Research Council, over a thousand scientists around the world, and most recently, the United Nations Environment Program, have identified bottom trawling as the major threat to deep-sea coral ecosystems. As noted on your website, trawling and other destructive activities "create coral rubble, which is not a suitable habitat for fishes and invertebrates." Those species "that depend on the coral structure lose their habitat and move out of the area. Damage may range from a decrease in the size of the coral habitat with a corresponding decrease in the abundance and biodiversity of the associated invertebrate and fish species, to the complete destruction of the coral habitat. The trawls also may re-suspend sediments that, in turn, may smother corals growing downstream of the current."[1]

Oceana applauds NMFS and several of the Councils' for recognizing the importance of deep-sea coral and sponge ecosystems to ocean health in general and to fish in particular, and of the threats to them of bottom trawling. Deep-water corals "provide crucial habitat and

[1] http://coris.noaa.gov/about/deep/deep.html

reproductive grounds for commercially important fisheries including sea bass, snapper, porgy, rock shrimp and calico shrimp, thus drawing the commercial fishing industry to these fragile areas."[1] Trawl fisheries for these species have in large part led to the destruction of 90-99 percent of the Oculina Banks. The South Atlantic Council designated this unique area the first deep-sea coral HAPC in 1984, and extended it indefinitely in 2004. Coral and sponge habitat in the North Pacific were designated as HAPC in 2002, and work is continuing in the council to restrict bottom trawling in several coral and sponge areas. The New England Council's current preferred alternative (5b) in Amendment 2 of the Monkfish Fishery Management Plan would protect corals and sponges in Oceanographer and Lydonia Canyons (though only from bottom trawlers targeting monkfish). These areas are already designated EFH for the commercially important fisheries for Atlantic halibut, Acadian redfish, red crab, and tilefish. However, to date, only the South Atlantic Council has actually implemented any "on-the-water" protections from bottom trawling, and even there trawling at times continues illegally.

Immediate protections are needed

While some of the councils do appear to be making some progress, the vast majority of deep-sea coral and sponge ecosystems within US waters remain in jeopardy. Deep-sea corals are typically fragile, slow growing, and long-lived, and so are easily damaged and very slow to recover.

As you and those in your program are aware, destructive trawling can "destroy large areas of coral habitat in a relatively short time."[1] Indeed, a single pass of a trawl can damage or destroy centuries of coral and sponge growth. Only 20 acres of the original 100 miles of pristine Oculina reef habitat remain; an area so small that a single trawler could destroy it in one night. And, on average, Alaskan trawlers pulled up nearly a million pounds of corals and sponges a year from 1997-1999. As long-term or even permanent damage can be caused in little more than an instant of negligence, deep-sea coral and sponge ecosystems should be immediately protected from bottom trawling.

Existing Legal Authority

There have been discussions in both Council meetings and in NOAA more widely regarding the procedure and proper statutory authority to protect deep-sea corals. Some have even expressed concern that neither the Councils nor the Fisheries Service have the authority to protect deep-sea corals and sponges under current law. Such concerns are not warranted.

Existing statutory authorities that support actions to protect deep-sea coral protection include: (1) the Essential Fish Habitat provisions (EFH) of the Magnuson-Stevens Act; (2) the bycatch provisions of the Magnuson-Stevens Act; (3) the discretionary provisions of the Magnuson-Stevens Act; (4) the Coral Reef Protection Executive Order 13089; and (5) the National Environmental Policy Act (for a more detailed account of these authorities see recent

comments from Oceana to NOAA Fisheries and the New England Fishery Management Council on Amendment 2 of the Monkfish Fishery Management Plan and its Draft Environmental Impact Statement). Thus, there are several existing statutes that require the Fisheries Service and the Councils to protect deep-sea corals and sponges. Oceana believes that, of these, designating deep-sea corals and sponges as HAPC and immediately banning bottom trawling from those areas is the quickest way to protect them.

US leadership

Twenty years ago, the US showed leadership in being the first nation to protect a deep-sea coral area by designating the Oculina Banks as HAPC and banning bottom trawls from fishing in the area. Since then, the US has fallen behind much of the rest of the world in deep-sea coral protection. For example:

- In 1999, Norway banned all bottom trawling along the Sula Ridge, creating Europe's largest deep-sea coral protected area. Since then four other reef areas in Norwegian waters have been closed to bottom trawling, the latest within a year of discovery.
- New Zealand has closed 19 seamounts to all forms of trawling as part of an ongoing research program.
- Canada closed a 424 square kilometer deep-sea coral area to bottom trawling in 2002, and another, larger area earlier this year, both off Nova Scotia.
- In August 2003, the European Union closed an area off Scotland – the Darwin Mounds – to bottom trawling to protect deep-sea *Lophelia* reefs.
- Ireland's extensive deep water research program has uncovered *Lophelia* reefs in the Rockall Trough and Porcupine Seabight, areas that are now set to receive protection from bottom trawling.

Reflecting an intent to bring the U.S. back into the forefront of ocean conservation, Senators McCain, Hollings, Biden and Leahy, in a May 27, 2004 letter to Secretary of State Colin Powell urged Secretary Powell to seek a UN resolution prohibiting bottom trawling on the high seas until measures to manage and protect coral and other vulnerable deep-sea ecosystems are in place. In a June 10, 2004 letter, Representatives James Greenwood, Sam Farr and several other Members of Congress joined the Senators in calling for those protections in their own letter to Secretary Powell. Furthermore, bills protecting deep-sea coral and sponge ecosystems within the US EEZ from bottom trawling have been introduced in both Houses. Such strong political interest in protecting these areas is a reflection of broad-based citizen support, which should make it relatively easy for the US to support the proposed rule and thereby demonstrate leadership by protecting deep-sea coral and sponge ecosystems in national waters.

Ecosystem-based management

Both the US Oceans Commission and the Pew Oceans Commission this year recommended a move away from single-species fishery management towards a more holistic, ecosystem-based management regime. This concept implicitly recognizes that the value to humanity of the whole ecosystem is much greater than the value of the sequential consumption of the sum of its parts. Moves toward ecosystem management are also recognition that ecosystems exist for far more than our short-term exploitation of commercially-valuable fish. Doing long-term or even irreversible damage to an ecosystem for (very) short-term gain puts unknown stress on an ecosystem that could provide income and livelihood for fishing communities in perpetuity if exploited sustainably. The unnecessary destruction of habitat that will take decades or even centuries to recover makes no sense economically or ecologically. Protection of these habitats from our most destructive activities should be at the forefront of fisheries management policy, at least until we better understand what part they play in the ecosystem as a whole.

NOAA has made considerable progress in the last few years in studying deep-sea corals and other sensitive, slow growing organisms, but we still know too little to fully understand the cost of allowing them to be damaged or destroyed. Congressional leaders recognize this fact, as demonstrated by Senators Stevens and Hollings co-sponsoring legislation to provide much needed funding for research to improve our understanding of deep ocean habitats and their role in the wider ocean ecosystem. However, such promising legislation will all be for naught if the areas that need researching are destroyed before we even know where they are.

In conclusion, the will to protect deep-sea coral and sponge ecosystems is evident from the US congressional and executive leadership. NOAA has the legal authority to assure that protection. And designating deep sea coral and sponge habitats as Habitats of Particular Concern and protecting those HAPCs from the destructive impacts of bottom-tending mobile fishing gear is the quickest way to ensure that no more permanent damage is inflicted on these habitats. We once again urge you to initiate the rulemaking proposed by Oceana as the best way to provide immediate protection for deep-sea coral and sponge ecosystems in US waters.

Sincerely,

David L. Allison, Director
Oceana Campaign to Stop Destructive Trawling